

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

FIRST MERCURY INSURANCE  
COMPANY,

Plaintiff,

vs.

DOG HOUSE HOLDINGS, LLC D/B/A DOG  
HOUSE BAR AND GRILL; MYRTLE  
BEACH HOLDINGS, LLC, D/B/A SECRETS  
CABARET; THOMAS DUDAK; AND  
RICHARD CAMPBELL,

Defendants.

Case No. 09-CV-4:09-02805-TLW

**ORDER OF DISMISSAL**

This matter comes before this Court pursuant to the filing by Plaintiff, FIRST MERCURY INSURANCE COMPANY (“First Mercury”), and Defendant DOG HOUSE HOLDINGS, LLC D/B/A DOG HOUSE BAR AND GRILL (“Dog House”), of a Consent Stipulation for Dismissal pursuant to Federal Rule of Civil Procedure 41. Prior to the submission of this dismissal motion, First Mercury and Dog House submitted a Consent Stipulation for Entry of Judgment. This Court has entered an Order of Judgment based upon the Consent Stipulation for Entry of Judgment.

First Mercury and Dog House now wish to dismiss this action in its entirety. The Court finds as follows:

1. The present action is a complaint for declaratory judgment, seeking a declaration of the rights of the parties pursuant to Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201-2202 with regard to the events and injuries

alleged in a suit styled *Richard Campbell v. Dog House Holdings, LLC d/b/a The Dog House Bar and Grill; Myrtle Beach Holdings, LLC, Secrets Cabaret, and Thomas Dudak*, Civil Action No. 2009-CP-26-7305, pending in the Court of Common Pleas, Horry County, South Carolina and any amendments thereto (the “Underlying Action”).

2. On or about March 7, 2008, First Mercury issued a Commercial Package Insurance Policy which included a Commercial General Liability Part and a Liquor Liability Part, Policy Number FMAP093358 (hereinafter referred to as the “Policy”) to Dog House Holdings, LLC d/b/a Dog House Bar and Grill, with a policy effective period of March 7, 2008, to March 7, 2009. The issue in the present suit is whether this Policy requires that First Mercury defend and/or indemnify Dog House or any other insured under the Policy with regard to the Underlying Action.
3. As a procedural matter, First Mercury named all parties to the Underlying Action in the present suit.
4. The Policy’s insured, Dog House, entered into a Consent Stipulation for Entry of Judgment with First Mercury. Based upon this Consent Stipulation, this Court has entered judgment against Dog House in the present suit.
5. Defendants Myrtle Beach Holdings, LLC, d/b/a Secrets Cabaret and Thomas Dudak, both nominal defendants, were served but did not answer or otherwise plead. The Clerk of Court filed an Entry of Default as to these two parties on February 16, 2010.

6. No notice of service as to Defendant Richard Campbell has been filed and he has not appeared.
7. Pursuant to Federal Rule of Civil Procedure 41, the consent stipulation of dismissal filed by First Mercury and Dog House is sufficient for voluntary dismissal as they are the only parties who have appeared in the suit.
8. The present action is hereby DISMISSED.

IT IS SO ORDERED.

s/ Terry L. Wooten  
Terry L. Wooten  
UNITED STATES DISTRICT COURT JUDGE

March 5, 2010  
Florence, South Carolina